HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION No. 5282 of 2007

DATED: 15-03-2007

Between:

R.Pentaiah

…Petitioner

and

The Joint Collector,
Medak at Sangareddy and others

…Respondents.

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 5282 of 2007

ORAL ORDER:

The 1st respondent by the impugned order dated 28-2-2007 directed interim disposal of the seized scheduled commodities belonging to the petitioner, in purported exercise of power and authority under Section 6-A (2) of the Essential Commodities Act, 1955 (for short 'the Act').

On 20-2-2007 the CWC godown, Siddipet was inspected by the Vigilance Wing of the Civil Supplies Department and 92 bags weighing 9.108 M.Ts. of Bengal Gram was found stored thereat. On allegation that the petitioner is pursuing a business in scheduled commodities without having a licence under the provisions of the A.P. Scheduled Commodities (Licensing and Distribution) Order, 1982 (for short 'the Distribution order') and in contravention of the provisions of the Act, the commodities stored were seized after recording a mediators report. The case of the petitioner is that he is a farmer, the scheduled commodities are the produce of his tillage and that he has stored the produce in the godown; that he is not a dealer and he is not required to obtain a licence under the provisions of the Distribution order. These are the issues and defences which are more appropriately considered in the proceedings under Section 6-A of the Act which have been initiated. However, the petitioner's grievance that the 1st respondent has passed an order dated 28-2-2007 in transgression of the provisions of Section 6-A (2) of the Act, merits acceptance.

This Court by the judgment dated 27-2-2007 in W.P.No.3761 of 2007 has set out the principles which invariably must be followed in exercising power and authority under Section 6-A(2) of the Act. The 1st respondent has merely recorded that the seized commodities are perishable in nature which they are not. In view of the irrelevant reasons recorded and in view of the fact that such reasons are contrary to the law declared in the judgment supra, the impugned order of the 1st respondent is set aside. The 1st respondent is however at liberty to pass a fresh order in accordance with law.

The writ petition is accordingly allowed at the stage of admission, after hearing the learned Government Pleader for Civil Supplies also. There shall be no order as to costs.

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GODA RAGHURAM, J

15-03-2007
Copy as soon as possible.
GRR